

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Afraaz R. Irani, M.D.,)	C/A No. 3:14-cv-03577-CMC-KDW
)	
Plaintiff,)	
)	
vs.)	PLAINTIFF’S MOTION TO COMPEL
)	DISCOVERY RESPONSES FROM
Palmetto Health; University of South)	DEFENDANTS USC SCHOOL OF
Carolina School of Medicine; David E.)	MEDICINE, KOON, AND WALSH
Koon, Jr., M.D., in his individual)	
capacity; and John J. Walsh, IV, M.D.,)	
in his individual capacity,)	
)	
Defendants.)	
)	

Pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Civil Rule 37.01, D.S.C., Plaintiff, Afraaz R. Irani, M.D., by and through his undersigned counsel, hereby files this Motion to Compel Discovery Responses from Defendants USC School of Medicine, Koon, and Walsh (hereinafter collective referred to as the “USC Defendants”). Plaintiff seeks the Court’s assistance in obtaining complete and meaningful responses to Plaintiff’s First Set Interrogatories and Requests for Production to these Defendants. The grounds for this motion are as follows:

1. Plaintiff served his First Set of Interrogatories and Requests for Production on the USC Defendants by mail on November 24, 2014. The undersigned counsel for Plaintiff subsequently granted an extension until January 20, 2015, for Defendant USC School of Medicine to respond. The USC Defendants’ counsel requested that discovery directed at the individual Defendants, Koon and Walsh, be deferred until receiving a substantive ruling on the qualified immunity issues. Plaintiff’s counsel responded on December 17, 2014, “As long as I can get

complete responses to my discovery from USC and Palmetto Health, I am fine with holding off on the individual discovery of Koon and Walsh until after the qualified immunity issue is addressed by the Court.” (A copy of the e-mail exchange in December 2014 is attached hereto as Exhibit A).

2. On January 20, 2015, counsel for Defendant USC School of Medicine served its Answers to Plaintiff’s First Set of Interrogatories and Response to Plaintiff’s First Request for Production. (Copies of these documents are attached hereto as Exhibits B and C respectively). Defendant USC School of Medicine objected to 14 out of the 16 interrogatories propounded by Plaintiff and did not provide any substantive information, except for providing the insurance policy limits of the SC Insurance Reserve Fund (Interrogatory No. 4) and identifying Defendants’ counsel as the individual who “prepared the responses based on documentation provided by her clients and by Palmetto Health, and through communications with Plaintiff’s counsel, David Rothstein.” (Interrogatory No. 16).

3. Defendant USC School of Medicine’s attorney also failed to produce a single document in response Plaintiff’s Requests for Production. Many responses stated, “See documents produced and exchanged among the parties” (See Ex. C, Responses to Request Nos. 1, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 21, 25, 26, 27, 29, 30) ; yet, Defendant USC School of Medicine initially failed to produce any documents at all.

4. By e-mail on January 26, 2015, Plaintiff’s counsel confronted Defendant USC-SOM’s counsel about the obviously inadequate discovery responses. (A copy of the e-mail of January 26, 2015 is attached hereto as Exhibit D). Defendants’ counsel responded by stating that she was gathering a number of documents, that the answers to Plaintiff’s Interrogatories could be found by reviewing the documents, and that Plaintiff’s counsel should wait until reviewing the documents

before scheduling a discovery conference with the Court.

5. On February 5, 2015, Defendant USC-SOM's counsel produced 1,169 pages of documents electronically by ShareFile. On February 10, 2015, Defendant USC-SOM's counsel produce another 57 pages of documents of Plaintiff's duty hours and evaluations. On February 13, 2015, Defendant USC-SOM's counsel produced 266 pages of Program Letters of Agreement that had previously been produced in two other, previous lawsuits involving the USC Orthopaedic Surgery Department. Defendant USC-SOM has not provided any supplemental, written responses to Plaintiff's Requests for Production, nor has this Defendant ever indicated which Bates labeled documents are responsive to particular requests.

6. On March 27, 2015, Plaintiff's counsel requested that the individual Defendants Koon and Walsh provide complete responses to Plaintiff's First Set of Interrogatories and Requests for Production, because the express condition of Plaintiff's agreement to postpone such responses—namely that Defendants Palmetto Health and USC School of Medicine provide complete responses to the requested information—had never been met. (A copy of Plaintiff's counsel's e-mail of March 27, 2015, is attached hereto as Exhibit E).

7. Despite two discovery conferences with the Court (on March 13, 2015 and April 17, 2015), the University Defendants have not supplemented their discovery responses or provided supplemental information to Plaintiff's counsel. During the last discovery conference, the Court allowed the parties until May 1, 2015, to correct any alleged deficiencies in their discovery responses, and stated that the 21-day deadline to file motions to compel under Local Civil Rule 37.01(A), D.S.C., would start on May 1, 2015.

8. Plaintiff has repeatedly attempted in good faith to resolve these discovery issues with

Defendants' counsel, but has been unable to reach an acceptable resolution of this matter.

For all of the foregoing reasons, Plaintiff requests an order from the Court compelling the University Defendants immediately to respond fully and completely to Plaintiff's First Set of Interrogatories and Requests for Production.

Pursuant to Local Civil Rule 7.04, D.S.C., this motion is being filed with a separate, supporting memorandum of law because a full explanation of the motion is contained herein and a memorandum would serve no useful purpose.

Respectfully submitted,

s/ David E. Rothstein
David E. Rothstein, Fed. ID No. 6695
ROTHSTEIN LAW FIRM, PA
1312 Augusta Street
Greenville, South Carolina 29605
(864) 232-5870 (O)
(864) 241-1386 (Facsimile)
derothstein@mindspring.com

Attorney for Plaintiff, Afraaz R. Irani, M.D.

May 21, 2015

Greenville, South Carolina.